

Box: TTAB FEE

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In The Matter Of Trademark Application Serial No. 76/376,612
For the Mark HAIR OF THE DOG
Published in the Official Gazette on September 24, 2002

Contract Packaging Resources, Inc.,)	
)	
Opposer,)	
)	
vs.)	Opposition No.
)	
TFR Corporation,)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION FOR HAIR OF THE DOG MARK

Opposer Contract Packaging Resources, Inc. ("CPR") is a North Carolina corporation whose principal place of business is located at 8009 Industrial Village Road, Greensboro, NC 27409.

Opposer CPR believes that it will be damaged by registration of the HAIR OF THE DOG mark and hereby opposes same.

The grounds for opposition are as follows:

1. Opposer CPR adopted and began using its HAIR OF THE DOG mark November 30, 2001 in connection with its nutritional supplements.
2. Since November 2001, Opposer CPR has used its HAIR OF THE DOG mark continuously and without interruption. Opposer CPR filed a trademark application

with the United States Patent and Trademark Office ("USPTO") for its HAIR OF THE DOG mark in connection with its "dietary supplements, namely, vitamin, mineral and herbal supplements for treatment of headache and dehydration," in International Class 005. See U.S. Trademark Application No. 76/405,390 filed May 7, 2002.

3. On February 27, 2002, Applicant TFR Corporation ("TFR") filed an intent to use application with the USPTO for the mark HAIR OF THE DOG for its "dietary and nutritional supplements" in International Class 005.

4. Because the Applicant's and Opposer's marks are identical and are used in connection with nutritional supplements, a likelihood of confusion under Section 2(d) of the Lanham Act between the marks may result.

5. Opposer CPR's U.S. Trademark Application No. 76/405,390 has been suspended pending the disposition of Applicant TFR's application. In an Office Action, mailed August 29, 2002, the Examining Attorney noted "[s]ince [CPR]'s effective filing date is subsequent to the effective filing date of the above-identified application(s), the latter, if and when it registers, may be cited against this application."

6. By reason of the foregoing, Opposer CPR believes and submits that it will be irreparably damaged by Applicant TFR's registration of the HAIR OF THE DOG mark.

7. Because Opposer CPR began using the mark before Applicant TFR filed its intent to use application, Opposer CPR is the senior user.

8. In close cases involving the issue of likelihood of confusion, the practice of the TTAB is to resolve such issues in favor of the senior user. Century 21 Real Estate Corp. v. Century Life of America, 23 U.S.P.Q.2d 1698, 1698 (Fed. Cir. 1992); In re Hyper Shoppes, 6 U.S.P.Q.2d 1025, 1026 (Fed. Cir. 1988); Giant Food, Inc. v. Nation's Foodservice, Inc., 218 U.S.P.Q. 390, 395 (Fed. Cir. 1983).

WHEREFORE, Opposer CPR prays that this Opposition be sustained and that TFR's application for the registration of the word mark HAIR OF THE DOG be denied.

POWER OF ATTORNEY

Opposer CPR has appointed Don J. Pelto (a member of the District of Columbia, Maryland and California bars), Jeff E. Schwartz (a member of the District of Columbia and Texas bars), and Shari L. Klevens (a member of the District of Columbia and Virginia bars) to prosecute this opposition proceeding and to transact all business in and before the United States Patent and Trademark Office in connection herewith.

The filing fee for this Opposition, in the amount of \$300, is enclosed herewith. If there are any further fees due in connection with the filing of this paper not accounted for, please charge said fees to undersigned's Deposit Account, No. 50-1067.

Respectfully submitted,



Jeff E. Schwartz
Shari L. Klevens
Don J. Peltó

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Attorneys for Opposer, Contract Packaging
Resources, Inc.

Dated: October 22, 2002

McKenna Long
& Aldridge, LLP
Attorneys at Law

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The "Received" stamp of the U.S. Patent and Trademark Office hereon acknowledges receipt of the accompanying Trademark papers regarding :

U.S. Trademark Application
Serial No. 76/376,612
Filed: Feb. 27, 2002
For: HAIR OF THE DOG

US PATENT &
TRADEMARK OFFICE

Including:

- Notice of Opposition for HAIR OF THE DOG mark (in duplicate);
check no. 202812 for \$300.00

TRADEMARK FEE PROCESS
RECEIVED
MAR 21 2002

Due Date: Oct. 24, 2002
Filing Date: Oct. 22, 2002

Atty. Docket: 25042.0007
Inspected: _____